

# Exhibit 5

**UNITED STATES DISTRICT COURT  
DISTRICT OF MINNESOTA**

IN RE CATTLE ANTITRUST LITIGATION  This document relates to:  ALL CASES	Case No. 19-cv-1222-JRT-HB
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**DEFENDANTS CARGILL, INCORPORATED AND  
CARGILL MEAT SOLUTIONS CORPORATION’S  
UPDATED DOCUMENT CUSTODIAN, NON-CUSTODIAL SOURCES, AND  
DATE RANGE PROPOSALS PURSUANT TO  
SECTION V OF ESI PROTOCOL**

Defendants Cargill, Incorporated (“Cargill”) and Cargill Meat Solutions Corporation (“CMS”) provide the following amended document custodian, non-custodial document source, and production date range proposals to Plaintiffs (“Plaintiffs”) in the above-captioned proceeding pursuant to Section V of the ESI Protocol (ECF No. 250) and the Second Order on Discovery Pending Resolution of Motions to Dismiss (ECF No. 254).<sup>1</sup> In relevant part, Section V states that the “Producing Parties will propose an initial list of (i) Document Custodians, (ii) non-custodial sources, and (iii) dates ranges.”

Cargill and CMS reserve their rights to amend or supplement these proposals at any appropriate time if Cargill and CMS obtain additional or more accurate information or if it should appear at any time that there are omissions or errors in these proposals. Further, in making the proposals, Cargill and CMS make no representations regarding whether they may use any documents, people, or information listed herein in support of their claims or defenses in this matter.

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<sup>1</sup> By making these disclosures, Cargill and CMS do not waive any rights, including, but not limited to, whether both defendants are properly parties and the right to challenge the propriety of Cargill as a defendant with discovery obligations and/or the scope of such disclosures. Cargill and CMS reserve the right to raise this issue and other objections, privileges, and/or defenses at a later time.

Cargill and CMS further make these disclosures based on their understanding of the allegations set forth in Plaintiffs' Second Consolidated Amended Class Action Complaint (ECF No. 125) and their understanding of the information reasonably available to Cargill and CMS as of the present date. By making these proposals, Cargill and CMS do not waive the right to object to the discovery or admissibility of any information described herein on the basis of attorney-client privilege, attorney work product, joint defense privilege, common interest privilege, or any other applicable privilege, law, or rule. Nor do Cargill and CMS waive the right to assert any other objection authorized by the Federal Rules of Civil Procedure, the Federal Rules of Evidence, or any other applicable law or rule in response to requests for the production of documents, interrogatories, requests for admission, deposition questions, or any other discovery requests involving or relating to the subject matter of these disclosures, including, but not limited to, burden, relevance, and proportionality.

Further, Cargill and CMS incorporate as if stated in full their objections and responses from Defendants Cargill, Incorporated and Cargill Meat Solutions Corporation's Response to Plaintiffs' First Set of Requests to All Defendants for the Production of Documents and Electronically Stored Information, dated July 20, 2020, made in response to Plaintiffs' First Set of Requests to All Defendants for the Production of Documents and Electronically Stored Information, dated June 19, 2020 ("Plaintiffs' First RFPs").

## **I. DOCUMENT CUSTODIANS**

### Cargill Document Custodian(s):

- Mike Zerr

### CMS Document Custodian(s):

- |                  |                            |
|------------------|----------------------------|
| ▪ Ben Brophy     | ▪ Steve Molitor            |
| ▪ Bill Chandler  | ▪ Kevin Pote               |
| ▪ Jarrod Gillig  | ▪ Hal Sankey               |
| ▪ Brian Highfill | ▪ Bill Thoni               |
| ▪ Dirk Jones     | ▪ Elizabeth Gutschenritter |
| ▪ John Keating   |                            |

## **II. NON-CUSTODIAL DOCUMENT SOURCES**

### Cargill:

- Intranet
- SharePoint site for Analytics

### CMS:

- Intranet
- SharePoint sites for Analytics, Operations, Pricing, and Process
- Shared network drives utilized by employees in the beef business
- Contracts database (XLGO)
- Procurement database (VBP)
- Position inventory System (PAR)
- Accounting database (JDE)

### III. DATE RANGES

The Court has ordered that for “proposals made prior to the ruling on the motions to dismiss,” parties shall assume “the following presumptive date range[s] shall apply: (a) for unstructured data, January 1, 2012, to June 30, 2020; and (b) for structured data, January 1, 2009, to June 30, 2020,” without prejudice to their ability to request narrower time periods or revisiting their time period proposals following the ruling on the motions to dismiss. Order/Notice to Attorney re Section V of the Order Regarding Production of Electronically Stored Information and Paper Documents § V(B)(1)(a)(i) (ECF No. 250). The Court also ordered that “[t]he Producing Party may also, on a request-by-request basis, ask the Requesting Party to agree to narrower date ranges for particular requests.” *Id.* at § V(B)(1)(a)(ii).

Relevant to issues regarding the appropriate date range are issues of proportionality, which must account for the number of custodians to be searched, the noncustodial sources to be searched, and the search terms (if any) and other search methodologies to be deployed. Cargill’s and CMS’s date range proposals below are contingent on evaluating the proportionality of the discovery requested and on the parties’ upcoming discussions on the number of custodians to be searched (if any), the noncustodial sources to be searched (if any), and the search terms (if any) and other search methodologies to be deployed. Cargill and CMS make the proposals below in conjunction with the proposals above regarding document custodians and non-custodial sources and in conjunction with Cargill’s and CMS’s responses to Plaintiffs’ First RFPs. Cargill and CMS reserve the right to propose different date ranges during negotiations regarding custodians, noncustodial sources, and Cargill’s and CMS’s responses to Plaintiffs’ First RFPs. In particular, Cargill and CMS reserve the right to propose that different date ranges apply to different custodians beyond those identified above, non-custodial sources beyond those identified above, or keyword searches, and Cargill and CMS reserve the right to revise the proposals below in the event that they agree to

produce different or additional documents beyond those that they indicated in their responses to Plaintiffs' First RFPs that they would produce or that they agree to produce documents for custodians or non-custodial sources in addition to those proposed above. Cargill and CMS also reserve the right to propose different time periods following the Court's ruling on the motions to dismiss.

Pursuant to Section V(B)(1)(a)(ii) of the Order [ECF No. 250], Cargill and CMS propose the following date ranges on a request-by-request basis:

No.	Proposed Date Range
1	<b>January 1, 2012 – June 30, 2020</b>
2	As indicated in Cargill's and CMS's responses to Plaintiffs' First RFPs, Cargill and CMS will meet and confer with Plaintiffs to discuss what data is available and what data should be produced for dates earlier than January 1, 2014. Cargill proposes a June 30, 2020 end date for any such production.
3	<b>January 1, 2014 – June 30, 2020</b>
4	<b>January 1, 2014 – June 30, 2020</b>
5	<b>January 1, 2014 – June 30, 2020</b>
6	<b>January 1, 2014 – June 30, 2020</b>
7	<b>January 1, 2014 – June 30, 2020</b>
8	<b>January 1, 2012 – June 30, 2020</b>
9	<b>January 1, 2012 – June 30, 2020</b>
10	<b>January 1, 2012 – June 30, 2020</b>
11	<b>January 1, 2012 – June 30, 2020</b>
12	<p><b>January 1, 2012 – December 31, 2019:</b> “[D]ocuments in the possession of Document Custodians that relate to any permanent or long-term closure of any CMS slaughter plant that slaughters primarily fed cattle” or “any proposed or considered closures or idling of any other slaughter plant that slaughters primarily fed cattle”</p> <p><b>January 1, 2014 – December 31, 2019:</b> “[D]ocuments in the possession of Document custodians that relate to ... any planned closure of a CMS slaughter plant that slaughters primarily fed cattle</p>

No.	Proposed Date Range
	<p>for purposes of conducting maintenance or repairs that occurred on days other than Sundays and lasted for more than 36 hours”</p> <p>For “documents sufficient to show the number of fed cattle slaughtered by CMS,” as indicated in Cargill’s and CMS’s responses to Plaintiffs’ First RFPs, Cargill and CMS will meet and confer with Plaintiffs to discuss what data is available and what data should be produced for dates earlier than January 1, 2014. Cargill and CMS propose a June 30, 2020 end date for any such production.</p>
13	<b>January 1, 2012 – June 30, 2020</b>
14	<b>January 1, 2012 – June 30, 2020</b>
15	<b>January 1, 2012 – June 30, 2020</b>
16	<b>January 1, 2014 – June 30, 2020</b>
17	Without waiving Cargill’s and CMS’s objections and subject to their willingness to meet-and-confer, <b>January 1, 2014 to December 31, 2019</b> for any documents to be produced.
18	As indicated in Cargill’s and CMS’s responses to Plaintiffs’ First RFPs, Cargill and CMS will meet and confer with Plaintiffs to discuss what data is available and what data should be produced for dates earlier than January 1, 2014. Cargill and CMS propose a June 30, 2020 end date for any such production.
19	<b>January 1, 2014 – June 30, 2020</b>
20	Without waiving their objections to this Request for Production, Cargill and CMS refer Plaintiffs to Cargill’s and CMS’s proposed Date Ranges in the related cases for any documents to be produced.

Dated: September 16, 2020

/s/ Kathryn N. Hibbard

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